IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 10TH JULY 2007 / 19TH ASHADHA 1929

Crl.MC.No. 2206 of 2007()

S.T. NO.30/07 of the JFMC-II, KARUNAGAPPALLY.

PETITIONER: ACCUSED

SIVARAJAN,
KOCHUPLAVILAYIL, KIDANGANAM VADAKKUM MURI,
SOORANADU VILLAGE.

BY ADV. SRI.S.SUDHEESHKAR
SRI. K.SIJU
SRI.K.VINAYAKUMAR

RESPONDENTS: STATE

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1. STATE OF KERALA, REPRESENTED BY
THE SUB INSPECTOR OF POLICE, KARUNAGAPPALLY
POLICE STATION, THROUGH PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.

2. SIVARAMAN,
GREESHMAM VEEDU, PADANAYARKULANGARA THEKKUMURI,
KARUNAGAPPALLY.

BY P.P. SRI.GIKKU JACOB.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 10/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

Crl.M.C. NO. 2206 OF 2007

Dated this the 10th day of July, 2007

ORDER

The petitioner faces indictment in a prosecution under Sec.138 of the Negotiable Instruments Act. Cognizance has been taken. Consequent to the non-appearance of the petitioner, a warrant of arrest has been issued against the petitioner and notice has been ordered to the sureties. According to the petitioner, he is absolutely innocent. His absence was not wilful. His counsel had applied to excuse the petitioner's absence. But that petition was dismissed and a warrant of arrest was issued. The petitioner is prepared to co-operate with the court for the expeditious disposal of the case. The petitioner apprehends that his application for regular bail may not be considered by the learned Magistrate on merits in accordance with law and expeditiously. It is, in these

circumstances, that the petitioner has come to this Court for a direction to the learned Magistrate to release him on bail when he appears before the learned Magistrate.

2. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the petitioner's application for regular bail on merits in accordance with law and expeditiously. No special or specific directions appear to be necessary. Every court must do the same. Sufficient general directions on this aspect have already been issued in the decision reported in **Alice George v. Deputy Superintendent of Police** (2003 (1) KLT 339).

3. In the result, this Crl.M.C. is dismissed; but with the observation that if the petitioner surrenders before the learned Magistrate and seeks bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate

must proceed to pass appropriate orders on merits and expeditiously – on the date of surrender itself.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge